

DEPARTMENTAL POLICY

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| POLICY # 203 | SUBJECT: Mixing of Youth Charged with or Adjudicated of Specific Offenses with Dependent or Neglected Children in Residential Facilities |
| EFFECTIVE DATE: July 6, 1987 REVISION DATE: August 22, 2008 | PAGE 1 of 4 |
| AUTHORIZED SIGNATURE: | |

MIXING OF DELINQUENTS WITH NON-DELINQUENTS

I. Purpose

The purpose of this policy is to ensure the best interests and safety of all children in placement in cases where youth who are charged with or adjudicated of specified delinquent acts are placed with dependent or neglected children and youth. The legal basis for these regulations is in Delaware Code, Title 10, Chapter 9, Subsection 1009 and Title 29, Chapter 90, Subsections 9003 (11), (14).

II. Policy

This policy requires the Department of Services for Children, Youth and Their Families (DSCYF) review residential placements of youth charged with or adjudicated for specified felonies or serious misdemeanors to ensure that the guidelines outlined in this policy are followed when youth are placed (mixed) with dependent or neglected youth. The Office of Case Management (OCM) is responsible for completing Mixing Reviews and making them available to the Division workers, residential facilities and the Child Placement Review Board in accordance with law.

III. Definitions

- A. Felony Level Offense - Any delinquent act constituting a felony under the laws of Delaware, any other state or the United States.
- B. Repeat Offender - Any child adjudicated delinquent of three (3) or more Serious Misdemeanor Level Juvenile Offenses occurring within the 24 months prior to the request for mixing.
- C. Serious Misdemeanor Level Juvenile Offense – Any delinquent act constituting any of the stated Serious Misdemeanor Level Juvenile Offenses or any court

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adjudicated violation of probation or juvenile aftercare in which the underlying adjudication is any of the stated misdemeanors pursuant to Title 10, Chapter 9, Subsection 1009(j)(1)c whether under the laws of the State of Delaware, any other state or the United States. Attachment C contains the list of Serious Misdemeanor Level Juvenile Offenses.

- D. Mixing – Placement by the DSCYF of any child charged with or adjudicated of a Felony Level Juvenile Offense or any Serious Misdemeanor Level Juvenile Offense in the same facility with dependent or neglected children who have not been charged with or adjudicated of any specified offenses.
- E. Facility – Any residential shelter, group home, foster home, treatment center, individualized residential treatment home (IRT), institution or any other place designated as a temporary or permanent residential placement for children located in the State of Delaware excluding accredited or licensed hospitals.
- F. Adjudication/Adjudicated –Any type of judgment of delinquency contained with the definition of “conviction” or “convicted” pursuant to Chapter 9 of Title 16, and shall include any probation before adjudication plea or admission, and any mental health or drug court deferred plea.
- G. Designee – The person in any Division seeking placement who has Mixing approval authority equivalent to the Division Director who has been authorized by the Division Director as his or her Designee for the purpose of approving a Mixing Request. Instructions for learning who Division Designees are is contained in Attachment B.
- H. Point Person – A person designated as a point of contact for specified procedures. Attachment B contains information about learning who the current Point Persons are for each Division.
- I. Mixing Placement Requestor – Department representative seeking a placement in a facility (defined above in E) which requires Mixing.

IV. Procedures

- A. Following the instructions provided in the Instructions for Completing a Mixing Request (Attachment A), all Mixing Requests are to be completed by the child’s case manager from the Division seeking placement each time a child enters a DSCYF contracted facility which requires Mixing regardless

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of which division holds the actual contract for that specific bed.

- B. Before any placements that require Mixing are made, each Mixing Request must have been approved by one of the following: the DSCYF Cabinet Secretary, a Division Director or a Designee. Attachment B contains information for learning the names of current Division Designees. Additionally judicial approval is needed for Felony Adjudicated or Charged Individuals as well as Repeat Offenders.
- C. All Mixing Placement Requestors who initiate a Mixing Request which requires judicial approval are responsible for making sure all required documentation reaches the point person appropriate to their Division. Attachment B contains information for learning the names of current Division point persons.
- D. When an Emergency or Overnight placement is made, the Division worker has two (2) business days to initiate the Mixing request.
- E. The Office of Case Management will complete a formalized review within five business days of placement which will be available for view in FACTS. A copy of this review will be forwarded to the Child Placement Review Board (CPRB) as well as the facility and the approving judicial officer if applicable. Subsequent reviews will be conducted by the CPRB after the child is in the placement for two months. If the child remains in the placement longer, additional regular reviews will be conducted by the CPRB according to its schedule for reviewing long-term placements. The purpose of all reviews shall be to determine whether, under the placement, the child offender continues not to present an unreasonable and unmanageable physical risk to other children in the facility, and that such placement is not contrary to the best interests of the other children in the facility.
- F. A Mixing Case is closed once the youth leaves the placement, no longer meets the delinquent status requirements for Mixing or reaches the age of 18 (Mixing only applies to minors).
- G. In the event a dependent or neglected youth with no adjudications enters a facility with adjudicated youth, all the adjudicated youth will then require a Mixing Request. Contact OCM for direction in conducting a placement under these circumstances.

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V. Monitoring Departmental Compliance with this Policy

The Office of Case Management will have training, departmental review and monitoring responsibility to assure compliance with the Mixing Policy. The OCM Mixing Reviewer will check on a monthly basis with both the CPRB and the placement facilities in the state which regularly accept youth who require Mixing to ensure that all the required reviews are being requested and conducted. If it is discovered that a Mixing Request which was required has not been completed, the OCM Mixing Reviewer will contact the case manager to inform him or her of the requirement and ensure that the Mixing Request is then completed.

VI. Incorporation of Attachments A, B and C by Reference in this Policy

The contents of Attachments A, B and C are incorporated by reference in Policy # 203. The contents of these attachments may be modified or updated as necessary without issuance of a revision of this policy.

Attachment A--Instructions for Completing a Mixing Request

GENERAL INSTRUCTIONS

- Mixing Reviews are required for youth at the following levels:
 - Felony Offender: Youth charged with or adjudicated with a felony require departmental as well as Judicial approval before placement.
 - Repeat Offender: Repeat offenders as defined in Section III B of this policy require Department and Judicial approval before placement.
 - Serious Misdemeanor Level Juvenile Offender: Only Departmental approval is required before placement occurs.
- A Mixing Request must be completed in FACTS. An e-mail should also be sent to the OCM Mixing reviewer at this point indicating that a Mixing Event has been initiated.
- FACTS Mixing events are user-generated and are initiated from the child's Client Event List because Mixing is not associated with any one particular case.
- Only one Mixing request event can be initiated in FACTS at a time.
- The FACTS Mixing program is cross divisional allowing workers to request Mixing in a facility that is under contract with another division; however placement approval must be obtained from the appropriate Division.
- If a youth leaves one Mixing placement and goes to another placement that requires Mixing, a new request must be initiated in FACTS and new authorizations received, including court orders if necessary, prior to placement of youth.
- A Supervisor, Regional Administrator, or Director/Designee can change the Mixing level if it is incorrect. Simply change the level from the drop down box, and then click on the Reason for Level Change text box and SAVE. Continue with your approval, denial or withdraw decision in the usual manner.

I. MIXING PLACEMENT REQUESTOR INITIATES MIXING REQUEST:

Use one of the following two methods to obtain the Client Event List, the screen from which Mixing Requests are generated.

1. From the client's Division case: Highlight the child's name in the Participant Group table, then to the right of the table click Client Event List.

OR

2. From Person Screening locate the child and double click on the child's name to get to the person screening - search, then from the menu bar at the top of the screen click Person Info, then click Client and Event List . . .

On the Client Event List click Events, Mixing, and Request from the menu bar to get the Mixing Request Event.

Complete the Mixing Request as follows:

1. The child's name, date of birth, age, worker's name and date of the Mixing Request are pre-filled.
2. **Mixing Level:** From the drop-down list, select the type of offense(s) that applies.
3. **Custody Status:** From the drop-down list, select the type of individual or the Division that holds custody of the child.
4. **Termination Date for Aftercare/Probation:** Enter the date the child's Probation or Aftercare will expire only if you know it.
5. **Projected Placement Date:** Enter the expected placement/admission date.
6. **Requested Placement Information:**
 - a. Option a.
 - 1) Choose a Service from the drop-down box on the Service Provider Search screen. Click Query.
 - 2) Highlight the name of the facility from the list and choose Store.
Close.
 - b. Option b.
 - 1) Click on Search at the bottom of the screen to get to the Client Service Search screen. Then, click on Search to reveal the Service Provider Search screen.
 - 2) Fill in the name of the facility and click on Search again.
 - 3) Highlight the name of the facility and go to the menu and choose Provider and Store. Then close to get to back to the Service Provider Search screen. Proceed as above in a-1) & a-2).

7. Click on the Summary Information tab of the Mixing Request to find the **Legal** and **Placement Summary** tables.

- a. **Legal Summary Information:** Adjudication information that has been previously entered in a YRS FACTS case is pre-filled on the top table. If there are additional charges or adjudications that are not recorded, they can be entered in the 2nd table. Double click on the **N** in the upper left corner of the table to obtain a line. *Do not duplicate information already provided in the first table.*
- b. **Placement Summary Information:** Any placement history that has previously been recorded in FACTS will be brought forward to the table(s) on the screen. The placement screen(s) cannot be edited.

8. Click on the Status/History tab.

- a. Complete the **Risk Factors** form. Complete or update the form by placing the cursor in the field to the right of each listed topic and right-click the mouse to display the choices. Click on the appropriate radial button to record your selection. Your choice will be recorded on the printed form.
- b. Complete the **Child Status/History** information. Record information pertinent to this child's mixed placement and consider that historical events may have an effect on the child's current behavior. Include the circumstances leading to the current delinquency adjudications, particularly violent or aggressive behaviors. Give the details of the risk management plan if one will be used. In general terms, describe the children currently residing in the requested placement and whether, in your opinion, this child will be any risk to them. Please be complete.

*NOTE - FOR CMH MIXED ADMISSIONS: Before finalizing the Request Event, check with the CMH Point Person to verify content and format.

9. **Finalize** the Mixing Request. It will automatically be work listed to the supervisor of the worker filling out the Request.

- a. **YRS:** An Assign Linked Event Responsibility screen appears. Assign the next event (Director's Approval Event) to the YRS Designee who reviews it for the YRS Director.
- b. **DFS:** After the Supervisor finalizes the approval event a **Regional Administrator's** event is automatically work listed. The Regional Administrator's screen is exactly like the Supervisor's screen and is to be completed in the same manner. The next event (Director's Approval Event) is assigned to the DFS Designee who reviews it for the DFS Director.

- c. **CMH:** Mixing events in FACTS have to be finalized by a licensed behavioral health clinician before they are approved by the Division Director or Director Designee who completes the next event (Director's Approval Event).

II. THE DSCYF CABINET SECRETARY, THE DIVISION DIRECTOR OR THE DESIGNEE APPROVES MIXING REQUESTS

Mixing Requests must be signed by the Cabinet Secretary, a Division Director or a Designee.

The Director Approval event is accessible on the work list or from the child's Client Event List.

A. Complete the Director Mixing Approval screen as follows:

1. **Cabinet Secretary/Director/Designee:** Click on Director and the FACTS – (Worker Search) screen will appear. Enter the name of a Director, then click on Query, *highlight the name* and click on Select. The name will automatically fill on the Mixing Request. A designee can also sign on this line.
2. **Outcome:** From the drop-down list choose: *Approved, Denied or Withdrawn*.
3. **Finalize**
 - a. If the child is a Serious Misdemeanor Level Juvenile Offender, an Assign Linked Event Responsibility screen appears for a **Mixing Review**. Assign the Mixing Review to the OCM Mixing Reviewer. Information for learning who the OCM Mixing Reviewer is is contained in Attachment B.
 - b. If the child has a felony, pending felony or is a repeat offender, an Assign Linked Event Responsibility screen appears that assigns the Court Liaison a **Mixing Petition**. Assign to the Court Liaison for your county. Instructions for learning who the Court Liaison is for your county is contained in Attachment B.

IMPORTANT: The DSCYF Cabinet Secretary, Division Director or Designee **Signs** the Mixing Request Memorandum on the line provided. (See Item 4 below for instructions on printing the official Mixing Document). The designated Court Liaison must receive it along with the Court Order(s) referenced in the Request.

4. **Print** the official version of the Approved **Mixing Request Memorandum**. Go to the child's Client Event List and to the current Mixing Request and choose the **Director's Approval** event. Double click to open and go up to File in the menu and click Print. There are 3 choices. Choose **Memorandum** and print. If the Director or Designee has put notes in the **Event Print** then print that as well. Close. The Approvals are cited in Section III. Authorization Information. The Director or Designee is to sign the Request on the line provided. Choose **Assessment** and print. Attach this document to the Memorandum.

5. The Mixing Placement Requestor or the Designee will fax the signed Mixing Request Memorandum and Assessment to the facility and the OCM Mixing Reviewer per Division protocol.

III. FAMILY COURT LIAISONS COORDINATE JUDICIAL APPROVAL

Felony adjudicated or charged juveniles as well as repeat offenders require judicial approval for Mixings.

- A. The Family Court Liaison is work listed to complete the Mixing Petition screen. When the Petition screen is finalized, the Court Order event is automatically work listed to that same Liaison for completion after the Judicial Officer has made a mixed placement decision.
- B. The Court Liaison will use the Mixing Request Memorandum and Assessment and Delinquency Orders received by FAX from the Department and will deliver them to the Deputy Attorney General (DAG) who will prepare a Motion and Order that will go through Court procedure to the judicial officer. The Court may schedule a Mixing hearing if it desires more information.
- C. After the judicial officer reviews the request (with or without a hearing), approves or denies the placement, the Court Liaison will complete the FACTS Court Order screen. Whether the Court authorizes or denies the placement, the Family Court Liaison will fax the signed Court Order to the Director Designee or case manager and the Mixing Reviewer. To confirm fax delivery, the Court Liaison should send an e-mail to all parties notifying them of the Court's decision.

The Mixing Placement Requestor or Director Designee will fax the Mixing Request and Order to the facility per Division protocol

IV. MIXING REVIEWS are conducted to determine whether: (1) while in the placement, the child offender presents an unreasonable and unmanageable physical risk to other children in the facility; and (2) such placement is not contrary to the best interests of the other children in the facility.

- A. After the child is placed, the OCM Mixing Reviewer will review the placement to determine if the youth is a risk to others and then prepare a report. It is available to Department staff in FACTS on the child's CLIENT EVENT LIST. It is also mailed to the facility and the Child Placement Review Board (CPRB). OCM Mixing Reviews must include the following information:
 1. The child's custody status, date probation terminates, date of placement, and all active DSCYF Division Case Managers.
 2. A listing of all active delinquency adjudications (Felonies and Serious Misdemeanor Level Juvenile Offenses).

3. A listing of all pending charges (Felonies and Serious Misdemeanor Level Juvenile Offenses)
 4. A summary of the youth and his/her family background.
 5. An adjudicatory summary outlining every adjudicated charge the youth has ever incurred that details the circumstances surrounding each adjudicated charge (if available).
 6. A chronological placement history for all placements (CMH, DFS, YRS) detailing the dates of placement and the reasons for each placement ending.
 7. A listing of any medications the youth may be taking and the reasons for each medication; and a listing of the youth's current mental health diagnoses and mental functioning (if any of this information is available).
 8. A summary of coordinated CMH service efforts.
 9. A report of the information gathered by the OCM Mixing Reviewer from the clinician, foster parent, or other representative of the facility familiar with the child and his/her progress in the placement.
 10. The OCM Mixing Reviewer's determination of the appropriateness of the placement.
- B. If the child remains in the placement for more than two months, the CPRB reviews the child's mixed placement. A month prior to the scheduled review, the CPRB asks the Mixing Placement Requestor for a list of Interested Parties to be invited to the review. Interested parties can include the Mixing Placement Requestor, other agency workers, a representative from the facility, the child's parents and the child. Not everyone is required to attend the review, but it is extremely important for someone to attend who is aware of the child's day-to-day behavior in the facility. Sometimes the Board will arrange with facility personnel to attend telephonically.
- C. If the child continues in the placement, the CPRB will conduct subsequent reviews on an annual basis for all children in DFS custody. For any other youth, the CPRB will conduct bi-annual reviews. The results of all CPRB reviews will be distributed to the OCM Mixing Reviewer, Directors of any Divisions open with the Mixed youth and the facility where the youth is placed.

**Attachment B- Required Documents, Designees, Point Persons, Court Liaisons,
and Mixing Reviewer**

Documents required for submitting a Mixing for Judicial approval:

1. Mixing Request Memorandum (signed by a Director or Designee)
2. Risk Factors Worksheet
3. All adjudicatory orders pertaining to the youth

Designees

Designees to sign mixing orders, in lieu of the Division Director, have been named for CMH, DFS, and YRS. Please see the internet or extranet sites listed below for the individuals who are currently the designees for each division (or contact the Office of Case Management for this information).

Point Persons who submit required documentation to Court Liaisons for Mixings that need judicial approval:

- DFS and YRS workers will supply the Court Liaisons directly with required documentation
- Please see the internet or extranet sites listed below for the Point Person for CMH (or contact the Office of Case Management for this information).

Court Liaisons:

Please see the internet or extranet sites listed below for the names of the Court Liaison Supervisor and the Court liaisons for Kent, New Castle and Sussex Counties (or contact the Office of Case Management for this information).

OCM Mixing Reviewer

Please see the internet or extranet sites listed below for the name of the OCM Mixing Reviewer (or contact the Office of Case Management for this information).

DSCYF Internet Site Address for Names of Designees, Point Persons, Court Liaisons and OCM Mixing Reviewer

http://kids.delaware.gov/pdfs/pol_dsc203_attachmentB_Named_Persons.pdf

Attachment C- Serious Misdemeanor Level Juvenile Offenses

- Criminal Solicitation in the 3rd degree
- Offensive Touching
- Menacing
- Assault in the 3rd degree
- Terroristic Threatening
- Unlawfully Administering Drugs
- Vehicular Assault in the 2nd degree
- Sexual Harassment
- Indecent Exposure 1st or 2nd
- Incest
- Unlawful Sexual Contact 3rd
- Unlawful Imprisonment 2nd
- Reckless Burning or Exploding
- Endangering the Welfare of a Child
- Escape in the 3rd degree
- Resisting Arrest
- Harassment
- Lewdness
- Carrying a Concealed Dangerous Instrument